

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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JOEL F. HOLUBAR,
&
MARIANA H. HOLUBAR,

Plaintiffs,

v.

KENT KHOLBERGER;
CHASE-FREEDMAN FAMILY TRUST
&
M/Y CHEROSA, *in rem*,

Defendants.
-----X

FILED
CLERK'S OFFICE
FEB 26 AM 11:27
DISTRICT OF MASS
03 CV 12404 (NG)

WAIVER OF SERVICE

TO: Edward C. Radzik, Esq.
Donovan Parry McDermott & Radzik
Wall Street Plaza, 88 Pine Street
New York, New York 10005-1801

I, Edward C Radzik Esq., attorney for defendants, acknowledge receipt of your request that Service of the Summons in the above captioned matter, in the United States District Court for the District of Massachusetts.

I have also received a copy of the Complaint and two (2) copies of this instrument, and a means by which the return of this instrument may be effected without cost to me.

I agree to save the cost of service of the Summons and an additional copy of the Complaint in this lawsuit by not requiring that I be served with judicial process in the manner provided for by Rule 4.

I will retain all defenses or objections to the lawsuit or to jurisdiction or venue of the Court except for objection based on a defect in the Summons or in the Service of the Summons and Complaint.

I understand that a Judgment may be entered against me (or my client) if an answer or motion under Rule 12 is not served upon you within sixty (60) days after December 19, 2003, or within ninety (90) days after the date if the request was sent outside the United States.

Dated: _____

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil procedure requires certain parties to cooperate in saving costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by plaintiff located in the United States to waive service of the summons and complaint, fails to do so will be required to bear the costs of such service unless good cause can be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over the person or property. A party who waives service of the summons and complaint retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on plaintiff's attorney a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within the time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

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Dated: 1/5/04

